

EXHIBIT 52

MAO DECLARATION OPPOSITION TO SUMMARY JUDGMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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ANIBAL RODRIGUEZ, et al.)
individually and on behalf)
of all other similarly)
situated,)

Plaintiffs,) Case No.

) 3:20-CV-04688

vs.)

GOOGLE LLC, et al.,)

Defendant.)

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Videotaped Zoom Deposition of
JULIAN SANTIAGO
Monday, March 7, 2022

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Katy E. Schmidt
RPR, RMR, CRR, CSR 13096
Veritext Job No.: 5106972

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1 Q. Would you agree Google is entitled to defend 02:31
2 itself? 02:31

3 A. I believe that the people that Google is 02:31
4 taking information from who have opted out of them 02:31
5 taking and collecting that information have the right to 02:31
6 bring light to this. 02:31

7 Q. And you think you're one of those people; 02:31
8 right? 02:31

9 A. I am a person who, as a consumer, trusted in 02:31
10 Google to keep my information safe when they themselves, 02:32
11 in their own words, told me that taking care of my 02:32
12 information was a big responsibility to them and that 02:32
13 they would work hard to protect that information and all 02:32
14 the information in the services that encompass that 02:32
15 information. And yet across those services, giving me 02:32
16 the option again to control what I do with that 02:32
17 information -- what they -- what I decide they could do 02:32
18 with that information. 02:32

19 And when I say for them not to track my 02:32
20 activity, and when you -- and when I click on -- through 02:32
21 this privacy policy and click on "My Activity" where it 02:32
22 says, you know, everything that they would be doing if 02:32
23 my web-and-app activity was on, my searches, all the 02:32
24 things I do on Google, products and services, like maps, 02:33
25 my location, my -- the language, IP address, refer, 02:33

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1 whether to use an browser or an app, ads I click, all 02:33
2 this information that I trusted in Google to keep secure 02:33
3 and they told me I was in control of, with their own 02:33
4 words, with their own writing, with their own privacy 02:33
5 policy that they present to everyone, including myself, 02:33
6 all these things, all these services, all this data, all 02:33
7 this information, that they tell me when app activity is 02:33
8 on, Google will save this information. 02:33

9 So when Google -- when app -- 02:33
10 web-and-app activity is off, shouldn't be getting saved. 02:33

11 So why is it getting saved? 02:33

12 There's something very wrong there. 02:33

13 Q. How long do you think Google has been doing 02:34
14 this? 02:34

15 A. I can't answer that. 02:34

16 Q. Why? 02:34

17 A. Because I'm not Google. I don't know how long 02:34
18 they've been doing it. 02:34

19 Q. Did you make an allegation about how long 02:34
20 Google has been doing this in your Complaint? 02:34

21 A. Yeah. You could refer to the Complaint. 02:34

22 Q. If it's not in there, is that because you 02:34
23 don't know? 02:34

24 A. What I do know is that since the time that 02:34
25 I've had my Google account, which you showed me 2016, 02:34

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1 when I have turned my privacy settings to not track and 02:34
2 collect my information, they've done so. When I have 02:34
3 used Google services, everything, from apps, devices, 02:35
4 searches, YouTube, other integrated third-party apps, 02:35
5 they put me in control of what happens with my 02:35
6 information when I'm using their services. 02:35

7 And they made it very clear in their writing 02:35
8 that I'm in control and if I say that 02:35
9 web-and-app activity is turned off, they will not 02:35
10 track, yet that doesn't seem to be the case. 02:35

11 They make a very clear in the 02:35
12 web-and-app activity page that web-and-app activity must 02:35
13 be on for all those things that they list out, those 02:35
14 bullet points to track. So if it's off, they're not 02:35
15 tracking. 02:36

16 So I know since the time I've had my Google 02:36
17 account, they've done so. 02:36

18 Q. Mr. Santiago, can you turn to Exhibit 4? Or 02:36
19 open it up on your Exhibit Share. 02:36

20 A. Sure. 02:36

21 Q. Do you have it open? 02:36

22 A. Yes. 02:36

23 Q. So based on this, you see -- and we've gone 02:36
24 over this -- that the first time you paused 02:36
25 web-and-app activity on your personal account was on 02:36

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1 September 15th, 2020; right? That's what this document 02:36
2 says. 02:36
3 A. That's what this document says, but I don't 02:36
4 know if that's correct. 02:36
5 Q. I'm asking a yes-or-no question. 02:36
6 Yes or no, is that what this document says, 02:36
7 that the first time you paused web-and-app activity was 02:36
8 September 15th, 2020? 02:37
9 MR. LEE: Asked and answered. 02:37
10 MS. ARAKAKI: You can answer the question with 02:37
11 a yes or no. 02:37
12 MR. LEE: You can answer it however way you 02:37
13 want. 02:37
14 THE WITNESS: I don't know if this document is 02:37
15 correct. 02:37
16 BY MS. ARAKAKI: 02:37
17 Q. Let's assume this document is correct for the 02:37
18 moment. 02:37
19 Okay? 02:37
20 A. Let's assume Google's privacy policy does what 02:37
21 they say it does. Let's assume that when Google's 02:37
22 privacy policy tells me that I'm in control of my 02:37
23 information and all the information that they're capable 02:37
24 of tracking, and I say I don't want that information 02:37
25 tracked and collected, let's just say that whatever is 02:37

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1 on their page and their privacy policy is correct, we 02:37
2 wouldn't be here. 02:37
3 They're tracking and collecting despite me 02:37
4 having it off, and that's a huge issue. 02:37
5 Q. Mr. Santiago -- 02:38
6 A. I'm not the only one that's affected by this. 02:38
7 Q. Mr. Santiago, we have a number of hours on the 02:38
8 record to question you. You are here to sit for a 02:38
9 deposition. That amount of time is limited and we are 02:38
10 allowed to ask for more time if we are not able to get 02:38
11 the answers we need. 02:38
12 MS. ARAKAKI: Mr. Lee, if you want to take a 02:38
13 break to talk to your witness about answering the 02:38
14 questions, we can do that. I prefer not to ask for more 02:38
15 time because we're not getting answers to simple 02:38
16 yes-or-no questions or questions about just the basis 02:38
17 of what a document says or what a document says. But we 02:38
18 can do that if we need to. So, you know, I think -- 02:38
19 MR. LEE: Since you directed that to me, Lori, 02:38
20 I guess I should respond, which is I think he's been 02:38
21 responsive to all your questions. You just don't seem 02:38
22 to like some of them, so then you proceed to ask the 02:39
23 same question multiple times to which I've objected to. 02:39
24 The witness himself has noted many times where 02:39
25 he's already answered your question. 02:39

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1 A. If I didn't explicitly request them not to, 04:40
2 then that is something that I've -- between my 04:40
3 relationship with myself and The Economist, I haven't 04:40
4 opted out of that. I haven't said that's an issue if 04:40
5 they did so. 04:40

6 Q. Yeah. Okay. 04:40

7 So if The Economist, say -- you know, the 04:40
8 editors of The Economist, they want to know how many 04:41
9 people are reading this article about politics and the 04:41
10 election versus how many people are reading this article 04:41
11 about a sports team, and they want to crunch the numbers 04:41
12 but they themselves can't do it so they send it to this 04:41
13 company, the third party, it's called, you know, 04:41
14 Analytics Number Crunching. 04:41

15 Is it okay or do you find that an invasion of 04:41
16 privacy if they send that information, including your 04:41
17 information, to this third-party company, 04:41
18 Analytics Number Crunching? 04:41

19 A. If I've asked them not to, then yes, it's a 04:41
20 huge invasion of my privacy. 04:41

21 MS. ARAKAKI: Okay. Let's talk -- I think 04:41
22 we've been going for an hour but -- and I don't have a 04:41
23 lot more on this particular line of questioning. 04:41

24 So James and Mr. Santiago, do you want to take 04:41
25 a break or -- 04:42

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1 MR. LEE: Yeah. Let's go -- we want to 04:42
2 stretch our legs, I think. 04:42
3 MS. ARAKAKI: Okay. Sure. 04:42
4 MR. LEE: Ten minutes? 04:42
5 MS. ARAKAKI: Okay. 04:42
6 THE VIDEOGRAPHER: Going off the record. The 04:42
7 time is 7:42 p.m. 04:42
8 (Break taken in proceedings.) 04:42
9 THE VIDEOGRAPHER: Back on the record. The 04:56
10 time is 7:56 p.m. 04:56
11 MR. LEE: And, Lori, I'm not trying to rush 04:56
12 you. Just so we can make food arrangements, do you have 04:56
13 a general ballpark? Because that might affect when we 04:56
14 order food. 04:56
15 MS. ARAKAKI: Sure. Yeah. I mean, I think -- 04:56
16 I'm hopeful we can finish before another -- another 04:56
17 break but -- 04:56
18 MR. LEE: In that case we'll wait. 04:56
19 MS. ARAKAKI: -- I'm not -- 04:56
20 MR. LEE: You're not committing to it, I get 04:56
21 it. 04:56
22 MS. ARAKAKI: Yeah. I'm not committing to it. 04:56
23 MR. LEE: I get it. I can only ask for your 04:56
24 best guess. I totally get it. 04:56
25 MS. ARAKAKI: I'm hopeful. I'm sure we all 04:56

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1 are. 04:56

2 BY MS. ARAKAKI: 04:56

3 Q. Okay. Mr. Santiago, I just want to shift 04:56

4 gears a little bit from what we were talking about 04:57

5 before the break. 04:57

6 So in this particular case, I want to talk 04:57

7 about your harm in this case. 04:57

8 Do you believe you suffered any harm as a 04:57

9 result of Google's alleged invasion of privacy? 04:57

10 A. I believe I do -- I have, yes. Yeah. 04:57

11 Q. What harm? 04:57

12 A. Well, you already touched upon it, a huge 04:57

13 invasion of my privacy. Information that I thought was 04:57

14 personal to me or I expected to be personal to me that I 04:57

15 value, to be accessed by Google without my permission. 04:57

16 My information has value, and, you know, I could have 04:57

17 been profiting off my information if I chose to do so. 04:57

18 Google is profiting off my information without 04:57

19 my permission. 04:58

20 So the invasion of privacy and the value of my 04:58

21 information, those are two huge ones. 04:58

22 I'm sure there's cost associated with 04:58

23 background applications, tracking, and sending 04:58

24 information to Google from my phone and my computer, 04:58

25 additional energy costs that that cost me. Even an 04:58

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1 iPhone, you know, having more information stored or 04:58
2 background applications running without my consent that 04:58
3 run down my phone quicker that require me to get a new 04:58
4 phone sooner than I would have had to had my information 04:58
5 not been tracked in the background. 04:58

6 So I think there's multiple things here that 04:58
7 have been affected. 04:59

8 Q. Yeah. Okay. So that was a helpful long 04:59
9 explanation and I heard about five different things 04:59
10 there. So I just want to go through each of those 04:59
11 pieces one at a time. 04:59

12 So one of the things you said was the value 04:59
13 of your data to you; right? 04:59

14 A. Yes. 04:59

15 Q. And you said it's because you could have sold 04:59
16 that data if you wanted to; right? 04:59

17 A. If I chose to, I could have done certain 04:59
18 things with that data that I could have personally 04:59
19 profited off. Instead Google is profiting off of that 04:59
20 without my permission. 04:59

21 Q. Okay. So you say done certain things with 04:59
22 your data that you could have profited off of it. 04:59

23 Are you thinking of anything else besides 04:59
24 selling the data? 04:59

25 A. I think selling being the main one. 05:00

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1 Q. Okay. As you sit here today, are you thinking 05:00
2 of anything else besides selling? 05:00

3 MR. LEE: You mean on this first category, 05:00
4 right, that we're talking about, Lori? 05:00

5 MS. ARAKAKI: Yes. With respect to profiting 05:00
6 off of the data. 05:00

7 BY MS. ARAKAKI: 05:00

8 Q. I think you said, Mr. Santiago, that you could 05:00
9 have profited off the data. And you said one of the 05:00
10 ways or the main way was selling. 05:00

11 And I'm trying to understand if you were 05:00
12 thinking of something else when you used the phrase you 05:00
13 could have profited off of your data. 05:00

14 A. That's the first thing that comes to mind. 05:00

15 Q. So no other ways that you're thinking of 05:00
16 specifically at this point? 05:00

17 A. At this moment, no. 05:00

18 Q. So selling your data, do you ever try to do 05:00
19 that? 05:01

20 A. No. I clearly value my privacy and I value 05:01
21 my data and information being private at this moment in 05:01
22 time and in the past. 05:01

23 If that's something -- selling my data, I 05:01
24 mean, if that's something that I decide later on in the 05:01
25 future might be something that I want to do, that would 05:01

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1 be something for future me to decide on. 05:01

2 But at this point I have not thought about 05:01

3 that as. I've expressed here, I value my information 05:01

4 being secured and being mine, being -- that information 05:01

5 belonging to me and not being shared with internet firms 05:01

6 or search engines or apps that I did not allow to have 05:01

7 that information. 05:01

8 Q. So you've never tried to sell your data up to 05:02

9 today. 05:02

10 Is that right? 05:02

11 A. That's correct. 05:02

12 MR. LEE: Asked and answered. 05:02

13 BY MS. ARAKAKI: 05:02

14 Q. Do you have any imminent plans to sell your 05:02

15 data? 05:02

16 MR. LEE: Asked and answered. 05:02

17 Go ahead. 05:02

18 THE WITNESS: Like I mentioned, I know firms 05:02

19 exist that you could sell your data to with your 05:02

20 consent, but I -- that's not something I've considered 05:02

21 at this time. But that's not to say that future me 05:02

22 would want to do something like that. 05:02

23 BY MS. ARAKAKI: 05:02

24 Q. Got it. 05:02

25 So have you contacted any of those firms? 05:02

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1 MR. LEE: Objection. Vague. 05:02

2 BY MS. ARAKAKI: 05:02

3 Q. I'll ask a different question. 05:02

4 So you just said, Mr. Santiago, that you know 05:02

5 of firms to which you can sell your data; right? 05:02

6 A. I'm aware that they exist, yes. 05:02

7 Q. Are you -- are you aware of any specifically? 05:02

8 A. The names that I cannot recall off the top of 05:02

9 my head. I know there's a few. 05:03

10 Q. Have you looked into it before or done 05:03

11 research on it? 05:03

12 A. I've just looked into the fact that they 05:03

13 exist. 05:03

14 Q. So you've never actually taken the step of 05:03

15 contacting them and saying, "Hey, I want to sell my 05:03

16 data. How much are you willing to give me for it"? 05:03

17 A. That's correct. I have not, because as I've 05:03

18 expressed many times here, I value my information and my 05:03

19 choices with that information to remain private. 05:03

20 Q. I hear you. I'm just trying to understand. 05:03

21 Because you said one of the ways you've been harmed is 05:03

22 the fact that you can't sell your data because you can't 05:03

23 profit off of it. So I'm just trying to understand how 05:03

24 you would go about doing that. 05:03

25 And so I heard you say you haven't actually 05:03

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1 taken any affirmative steps to get -- to get your data 05:03
2 sold. 05:03
3 Have you taken any affirmative steps to 05:03
4 calculate the value of the data you could sell? 05:03
5 MR. LEE: Objection. Calls for an expert 05:04
6 opinion. 05:04
7 BY MS. ARAKAKI: 05:04
8 Q. You can answer to whether or not you've taken 05:04
9 any steps. I'm not asking you to run any calculations 05:04
10 yourself. 05:04
11 A. I know there is some data in the Complaint 05:04
12 showing different values of different information 05:04
13 online. 05:04
14 Q. Did you run those calculations yourself or are 05:04
15 you saying you read it in the Complaint? 05:04
16 A. I did not run those myself, no. That's based 05:04
17 on expert information. 05:04
18 Q. Okay. So just so I'm clear, you've not 05:04
19 yourself done any research to calculate the value of 05:04
20 your data; right? 05:04
21 A. No, I have not. 05:04
22 Q. And do you think it would be impossible to 05:04
23 sell your data because Google has it already? 05:04
24 A. I think my data would be highly devalued if I 05:04
25 decided to do so because of all the data that Google has 05:04

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1 collected and shared with all third parties and, you 05:05
2 know, different internet entities. 05:05

3 Q. What brings you to that belief? 05:05

4 A. Well, usually when there's a huge abundance of 05:05
5 something that devalues that product. If it's more 05:05
6 scarce, that increases the value. 05:05

7 Q. What makes you assume that Google is sharing 05:05
8 data with third parties? 05:05

9 A. Google is collecting my data from third 05:05
10 parties, despite me asking them not to. 05:05

11 Something that they put me in control of that 05:05
12 is all encompassing of all of their services, and 05:06
13 they've clearly outlined in their web-and-app activity 05:06
14 that when web-and-app activity is on, Google saves all 05:06
15 that information, which includes searches and other 05:06
16 listings you do on Google products, your location, 05:06
17 language, IP address, ads you click on. 05:06

18 In addition to sites and apps that partner 05:06
19 with Google, sites and apps that use Google services. 05:06
20 They make it very clear that if your web-and-app 05:06
21 activity is on, they are collecting this information. 05:06

22 So I know they're collecting it. And I've 05:06
23 said for web-and-app activity to be off, I should expect 05:06
24 that to not be the case any longer of them to continue 05:07
25 collecting it. And it seems that they continue to do 05:07

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